

भारत सरकार, वाणिज्य एवं उद्योग मंत्रालय, वाणिज्य विभाग
विकास आयुक्त का कार्यालय
नोएडा विशेष आर्थिक क्षेत्र
नोएडा दादरी रोड, फेस-II, नोएडा.201305, जिला - गौतमबुद्ध नगर
Government of India, Min. of Commerce & Industry, Deptt. of Commerce,
Office of the Development Commissioner
NOIDA SPECIAL ECONOMIC ZONE
Noida Dadri Road, Phase-II, NOIDA-201305, Distt. Gautam Budh Nagar (UP)

फा. सं.10/13/2006 -प्रोज/

दिनांक: 04/12/2015

सेवा में,

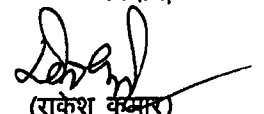
1. मुख्य कार्यपालक अधिकारी, न्यू ओखला औद्योगिक विकास प्राधिकरण, मुख्य प्रशासनिक भवन, सेक्टर - 6, नोएडा।
2. अतिरिक्त महानिदेशक विदेश व्यापार, वाणिज्य एवं उद्योग मंत्रालय, 'ए' विंग, इंद्रप्रस्थ भवन, आई पी एस्टेट, नई दिल्ली।
3. आयुक्त, आयकर, ए 2 डी, आयकर भवन, सेक्टर 24, नोएडा।
4. आयुक्त, सीमा शुल्क, नोएडा सीमा शुल्क आयुक्तालय, इनलैंड कंटेनर डिपो, तिलपता, दादरी, गौतम बुद्ध नगर, उत्तर प्रदेश - २०१३०६.
5. निदेशक, वाणिज्य विभाग, वाणिज्य एवं उद्योग मंत्रालय, भारत सरकार, उद्योग भवन, नई दिल्ली -110001।
6. उप सचिव (आई एफ-1), बैंकिंग प्रभाग, आर्थिक मामलों का विभाग, वित्त मंत्रालय, भारत सरकार, तृतीय तल, जीवन दीप बिल्डिंग संसद मार्ग, नई दिल्ली।
7. महाप्रबंधक, जिला उद्योग केंद्र, कलेक्ट्रेट के पास, सूरजपुर, ग्रेटर, नोएडा।

विषय: दिनांक 02.12.2015 को प्रातः 11.30 बजे आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त - एतद संबंधी।

महोदय,

मुझे उपरोक्त विषय का सन्दर्भ लेने और डॉ. एल बी सिंघल, विकास आयुक्त, नोएडा विशेष आर्थिक क्षेत्र की अध्यक्षता में दिनांक 02.12.2015 को प्रातः 11.30 बजे सम्मेलन हॉल, प्रशासनिक भवन, नोएडा विशेष आर्थिक क्षेत्र, नोएडा में आयोजित नोएडा विशेष आर्थिक क्षेत्र की यूनिट अनुमोदन समिति की बैठक का कार्यवृत्त अग्रेषित करने का निर्देश हुआ है।

संलग्नक : उपरोक्त

भवदीय,

(राकेश कुमार)
उप विकास आयुक्त

प्रतिलिपि:

1. विशेष कार्याधिकारी - विकास आयुक्त के सूचनार्थ।
2. वैयक्तिक सहायक - संयुक्त विकास आयुक्त के सूचनार्थ।
3. निर्दिष्ट अधिकारी, नोएडा विशेष आर्थिक क्षेत्र - सूचनार्थ एवं आवश्यक कार्यवाही के लिए।
4. सहायक विकास आयुक्त, सम्पदा अनुभाग, नोएडा विशेष आर्थिक क्षेत्र, सूचनार्थ एवं आवश्यक कार्यवाही के लिए।

उप विकास आयुक्त

Noida Special Economic Zone

(Minutes of Meeting of Approval Committee of Noida SEZ held on 02/12/2015)

Page 1 of 8

Minutes of the meeting of the Approval Committee of Noida SEZ held under the chairmanship of Dr. L.B. Singhal, Development Commissioner (DC), Noida SEZ at 11:30 AM on 02/12/2015 in the Conference Hall of NSEZ.

The following members of UAC were present during the meeting:-

- 1) Shri S.S. Shukla, Jt. Development Commissioner, NSEZ.
- 2) Shri Rajiv Kumar Soni, Asstt. DGFT, CLA, New Delhi.
- 3) Shri Sanjay Jain, Asstt. Commissioner, Customs, Noida Commissionerate.
- 4) Shri Narendra Singh, Income Tax Officer, Income Tax Deptt., Noida.
- 5) Shri G.P. Goswami, Asstt. Commissioner, DIC, Noida (Rep. of Principal Secretary, Industry, Govt. of UP.).

2. Besides, during the meeting S/Shri (i) Rakesh Kumar, Dy. Development Commissioner, NSEZ, (ii) R.K. Srivastava, Dy. Development Commissioner, (iii) A.K. Srivastava, Specified Officer, NSEZ, (iv) R.P. Verma, Asstt. Development Commissioner, NSEZ (v) Rajendra Mohan Kashyap, PA to JDC, NSEZ, (vi) Bhuvan Yadav, AEE, UPPCB, Noida and (vii) Shyam Milan Yadav, SDO, UPPCL, Noida were also present to assist the UAC.

3. At the outset, DC, NSEZ welcomed the participants. After brief introduction, each items included in the agenda were taken up for deliberation one by one. After detailed deliberations as well as interaction with the applicants / representatives of the units, the following decisions were taken:-

(i) Ratification of Minutes of last meeting of the Approval Committee:-

It was informed that no reference against the decisions of the UAC held on 04/11/2015 was received and therefore, Minutes of the meeting held on 04/11/2015 were ratified.



Item wise decisions on proposals included in agenda:

1. **Proposal in respect of M/s. Aryan International for setting up a new unit in NSEZ.**
- It was informed to the UAC that M/s. Aryan International has submitted a proposal for setting up a new unit at NSEZ for the manufacture and export of spices. This is a proprietorship firm of Mr. Saurabh Kumar Garg who has claimed to have experience of more than 18 years in the export of organic agro products. The project envisaged investment of Rs. 75.05 Lakhs and exports have been projected at Rs. 4675 Lakhs with projected NFE of Rs. 471 Lakhs over a period of 5 years.
- Mr. Saurabh Kumar Garg, Proprietor appeared before the UAC. He stated that his unit in DTA has been doing almost 100% of exports and he has expertise in international business. He further stated that as on date they are having two manufacturing facilities (i) at Delhi and (ii) at Greater Noida.
- It was informed to him that as against proposed manpower of 100 persons, he has projected NFE of Rs. 471 Lakhs. The project seems to be unviable as the anticipated cost for hiring of manpower at minimum wages applicable in U.P. comes to around Rs. 450 Lakhs and lease rent for two SDFs for 5 years works out to be around Rs.97 Lakhs. Besides ITC (HS) code of the items indicated by him were also incorrect. Their registration with Spices Board shows them as a Merchant Exporter.
- Sh. Saurabh Kumar Garg submitted that there may be certain mistakes in the figures given in the project report and he assured that the unit will submit a revised project report after rectification of the discrepancies brought to their notice as well as the hiring charges shall also be calculated as per the minimum wages applicable in the state. He emphasized that there shall be 100% export from the SEZ unit. He further mentioned that he has licence under Food Safety and Standard Act, 2006 as manufacturer of spices and amended certificate showing their registration as manufacturer exporter with Spices Board shall be submitted soon.
- After due deliberations, UAC decided to approve the project and directed to issue LOA. UAC further directed that the applicant shall submit revised project report



alongwith the documents as discussed above. The promoters were also advised to be careful for proper accountal of all the imported spices including cardamom, Saffron etc. which attract high rates of duty. Sh. Saurabh Kumar Garg stated that utmost care shall be taken by them and they shall strictly comply all the regulations.

2. Proposal of M/s. Orient International for amendment in LOA & monitoring of performance (deferred by UAC on 04/11/2015).

It was informed to UAC that the unit is engaged in manufacturing and trading of 'Self Adhesive Paper, Hand Labeler, Ink Rolls, Parts of Hand Labeler, Inks, Cores, Polythin'. Now the unit has proposed to include 'Trading of Barcode Printer and Parts, Barcode Scanner and Parts, Thermal Transfer Ribbon, Washcare, Customized Software, Computer and Computer Parts, Barcode Mobile Terminals and Parts, RFID Readers and Parts, RFID Tags, OS Printer and Parts, Security EAS Gates and Parts, Security EAS Tags, Barcode Mobile Printer and Parts, Digital Keyboard and Parts, Automatic Label Applicators and Parts, Label Rewinders and Parts' in their LOA.

It was further informed that while monitoring the performance of unit on 04/11/2015, UAC had observed that foreign exchange worth Rs. 500.63 Lakhs was pending for realization against the exports made. The UAC had decided to defer the matter for its next meeting and directed the unit to submit current status of pending foreign exchange realization.

It was informed to the present UAC that the unit in its letter dated 24/11/2015 has submitted that they have realized Rs.500.63 lakhs from all the debtors.

Sh. Som Datt, Manager appeared before the committee. He informed that the items of trading proposed for inclusion in the LOA are based on the demand of their customers. This will help them to provide customized solutions to their buyers and the proposed new activity would be strictly in line with their activity permitted in existing LOA. Further he emphasized that there shall be 100% exports.

After due deliberations, UAC approved the proposal subject to submission of detailed write up on the proposed activity and subject to the condition that in respect of these items where trading is being allow now, no DTA sale shall be permitted. The unit shall also provide the statistical data separately for trading and manufacturing activities being carried out by them as on date.



3. Working without Bond-cum-LUT by M/s. Educomp Learning Pvt. Ltd. (deferred by UAC on 04/11/2015)

It was informed to UAC that LOA of unit was renewed for second block of five years w.e.f. 01/02/2012 subject to execution of Bond-cum-LUT. The unit had submitted Bond-cum-LUT on 26/10/2012, which was found deficient and was returned to the unit on 20/11/2012 for rectification. The unit submitted the rectified Bond-cum-LUT only on 18/09/2015. Hence, the unit was working without valid Bond-cum-LUT since 01/02/2012, which is violation of Rule 22 of SEZ Rules, 2006 and terms & conditions of LOA.

Sh. D.K. Gupta, GM (Taxation) and Sh. Anil Singh, Sr. Manager appeared before the committee on behalf of the unit. It was informed by them that they have not made any duty free procurement or duty free import and no other benefits of duty/taxes have been availed by them. They further stated that there was no intention to violate any Rules/regulations and the lapse occurred was purely unintentional and inadvertent.

It was informed to the unit's representative that as per Section 11(4) of the Foreign Trade (Development & Regulation) Act there is a penalty provision to settle the cases where a person admits any contravention. In the instant case unit was working without any valid Bond-cum-LUT since 01/02/2012, which is violation of Rule 22 of SEZ Rules, 2006 and terms & conditions of LOA. Sh. D.K. Gupta consented to settle the case as per Section 11(4) of the Foreign Trade (Development & Regulation) Act.

After due deliberations, DC, NSEZ on the recommendation of UAC imposed a penalty of Rs. 10,000/- on the unit in terms of Section 11(4) of the Foreign Trade (Development & Regulation) Act.

4. Proposal of M/s. Sunehri Exports Ltd. (Unit-II) for adjudication of SCN and renewal of LOA.

It was informed to UAC that M/s. Sunehari Exports Ltd. (Unit-II), has been issued an SCN dated 12/08/2015 to show cause as to why penalty should not be imposed on them under section 11 of Foreign Trade (Development & Regulation) Act, 1992 read with the Rule 25 of SEZ Rules, 2006 for failure to achieve positive NFE and non-fulfilment of terms and conditions of LOA. In the SCN it was mentioned that the unit



had earned negative NFE of Rs. 197.20 Lakhs on 31/03/2014.

In its reply to the SCN, the unit has claimed that they had achieved positive NFE of Rs. 982.79 Lakhs since inception to 31/03/2014.

Sh. Sumit Nanda, MD appeared before the approval committee. He stated that his unit was doing exports to US. Due to stiff competition from China, the unit could not sustain exports. Now the costs in China have gone up and overall cost in India shall become much more competitive. They have received good orders in hand and therefore would like to start exports as soon as they get approval from NSEZ to renew their LOA.

He claimed that in the SCN data from the Annual Performance Report ("APR") for four financial years' from 2010-11 to 2013-14 has been taken and it has been concluded that the company has achieved a negative NFE to the tune of Rs. 197.20 lakhs during this period. He further submitted that there has been a mis-reporting on their part in mentioning the forex outgo data for capital goods in the APR for the financial year i.e. 2009-10 and because of this mis-reporting, the NFE has been computed as negative in a huge way in that particular financial year and consequently, in the subsequent financial years also.

This mis-reporting in the data has happened because during this year some capital goods were transferred from their unit-I to unit-II within NSEZ and instead of mentioning the amortized value as per rule 53 of SEZ rules, 2006, book value of these capital goods was taken in point 4(B)(ii) of the APR and same was re-amortized in unit-II starting from the year 2009-10, while a part of these goods was already amortized in unit-I up to the financial year 2008-09. Thus Rs. 454.55 lakhs was already amortized in unit-I out of total book value of Rs. 591.01 lakhs of these capital goods. He claimed that if the correct value of goods are taken into account for calculation of NFE earning, then negative NFE would work out to be Rs. 118.39 Lakhs as against Rs.197.20 Lakhs indicated in the SCN dated 12/08/2015.

After due deliberations, it was decided that the details of NFE as submitted by the unit and the details of NFE as available with NSEZ may be sent to the nominated CA of NSEZ for the purpose of verification for which unit shall also provide bifurcated figures



of capital goods etc.

With a view to shorten the time lag and to facilitate the company to restart its operations in SEZ, on the recommendation of the committee, Development Commissioner imposed a penalty equivalent to 1% of shortfall of reconciled value of NFE in terms of Rule 54 read with its Annexure of the SEZ Rules, 2006. In addition to this, unit shall also be liable to pay the duty on the unutilized goods in terms of Rule 54 of SEZ Rules, Paragraph (ii) of Annexure-I of SEZ Rules, Rule 25 & Rule 37 of SEZ Rules as may be calculated by NSEZ customs. The committee also agreed to renew the LOA for a period of six months with a condition that further renewal shall be considered based on operational status of the unit after completion of five months. The Committee further directed that unit would deposit penalty amount within a week it is communicated to them and thereafter permission regarding renewal of validity of LOA would be issued. In addition committee directed the unit to deposit the customs duty as calculated by NSEZ customs within a week it is intimated to them.

Sh. Sumit Nanda, with the permission of chair, requested that there is change in name of their company from M/s. Sunehri Exports Ltd. to M/s. Dr. Fresh Assets Ltd.. He requested that the said change may also be taken note of. Since this was not a part of agenda and the documents were submitted by him in the UAC itself, it was decided that the matter may be examined separately, as per Rules.

5. Proposal of M/s. Nikka Mal Jewelers for renewal of LOA and monitoring of performance.

The UAC was informed that M/s. Nikka Mal Jewelers has been lying non functional since 2012-13. The LOA of unit has already expired on 04/01/2014. Now the unit has requested for renewal of LOA by submitting projections for the next five years of operations.

No one from the unit appeared to attend the meeting. The communication for the same was sent through e-mail. It was decided that a communication may be sent to the unit through registered speed post as well to ensure their presence in the next UAC which meets on 1st Wednesday of every month. Case was deferred for next UAC.



6. Delayed intimation for change in Directors by M/s. Inlays India Pvt. Ltd.

It was informed to UAC that M/s. Inlays India Pvt. Ltd., vide their letter dated 09/11/2015 have submitted intimation for change in directors as follows:-

Present Directors

- | | |
|---------------------------------------|---------------------|
| 1. Mr. Nathelie Gambade | - w.e.f. 02/05/2013 |
| 2. Mr. Thierry Marie Bernard Lucereau | - w.e.f. 29/06/2012 |
| 3. Mr. Rajpal Singh Tariyal | - w.e.f. 27/05/2015 |
| 4. Mr. Shailendra Kumar Singh | - w.e.f. 27/05/2015 |

Directors (resigned)

- | | |
|--------------------------|---------------------|
| 1. Mr. Philippe D'Andrea | - w.e.f. 26/05/2015 |
| 2. Mr. Sanjeev Shriya | - w.e.f. 06/06/2015 |
| 3. Mr. Alok Mukherjee | - w.e.f. 06/06/2015 |

The UAC was further informed that there is no change in shareholding pattern of the company prior to and after change of directors as per the details/documentary proof furnished by the unit.

However, in the instant case, changes took place between 26/05/2015 to 06/06/2015 and it had been intimated to DC office on 09/11/2015 (about 05 months delayed). The unit was required to intimate these changes forthwith. So this is a case of furnishing delayed intimation which is inconsistent with condition no. 14 of the Bond-cum-LUT.

Sh. Ajay Kumar, AGM (Administration) appeared before the committee. He requested that they have no request/intimation/proposal pending with NSEZ except the instant intimation for change in Directors. He was informed that intimation for change in Directors is required to be furnished forthwith and the instant intimation has been submitted delayed by five months.

After due deliberations, UAC decided that the intimation for change in Directors may be taken note of with a note of caution to the unit that they should ensure timely compliances in future. Sh. Ajay Kumar assured for the same.

7. Proposal of M/s. Indeutch Industries Pvt. Ltd. for inclusion of additional items in LOA.

The UAC was informed that the unit has proposed to include apron, bags, purses and BOPP pouches in their existing LOA. There shall be increase of approx Rs.40 Crores in the exports with additional NFE of around Rs. 28 Crores over and above the

existing projections in five years.

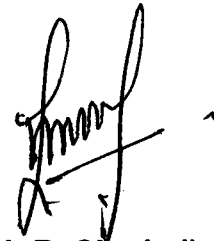
Sh. Pawan Sharma, AGM appeared before the UAC. He requested that due to quality related issues and to ensure timely execution of export orders, the company has proposed to include apron, bags, purses and BOPP pouches in their existing LOA. The proposed items are used by artists/ buyers as carry case, and they expect to generate employment of around 10 to 15 persons from this activity. The raw materials/inputs shall be sourced domestically.

After due deliberations, the UAC decided to allow inclusion of apron, bags, purses and BOPP pouches in the existing LOA of M/s. Indeutch Industries Pvt. Ltd..

SUPPLEMENTARY AGENDA

With the approval of Chair, the matter of M/s. Regal Jewellery Mfg. Co. for transfer of assets under Rule 74A was placed before the Committee. The UAC was informed that the said unit has already been issued Exit Order and the incoming units have deposited transfer charges. However, due to non execution of lease deed for plot no. 159, NSEZ, M/s. Regal Jewellery Mfg. Co. does not meet the conditions of Rule 74A. Therefore, the matter has been brought again before UAC for further consideration. It was decided that the applicant may be granted a Personal Hearing in the next UAC. Accordingly, the matter was deferred.

Meeting ended with thanks to the Chair.



(Dr. L.B. Singhal)

Development Commissioner